

[REDACTED]

From: [REDACTED]@dlapiper.com >
Sent: 05 February 2020 18:10
To: directmarketingcode
Subject: Consultation: Direct Marketing Code

External: This email originated outside the ICO.

Dear Sirs,

Further to the consultation relating to the direct marketing code, and in particular question 6 of the consultation paper "*Do you have any examples of direct marketing in practice, good or bad, that you think it would be useful to include in the code*". On behalf of certain of our clients, we would welcome an example of what could be considered an "acceptable refer a friend scheme" and/or what would "not constitute instigating", in particular clarity on the following example:

Example: a retailer has developed an application for consumers to pre-pay credits for goods, and each user has their own referral code e.g. JOHNSMITH1234 which can be accessed within the application. Provided that the application does not generate any direct marketing (e.g. provide a template for a prepopulated SMS message or email), if a user informs their friends of their referral code, and a friend elects to download the application, consents to receiving marketing and inputs the relevant referral code in order to receive a discount, this would not constitute instigating by the retailer.

In particular, it would be useful to clarify whether the test is if the scheme is driven to increase sales (versus viral marketing) and whether the focus in the proposed current example in the draft guidance is that the current example includes the generation of a marketing email and receipt of contact details, whereas the example I set out above would allow the individual to: (a) decide whether they then download the application and benefit from the discount on the sales (allowing them the opportunity to review any privacy notices on the application) but (b) elect not to receive future marketing.

Best regards,
[REDACTED]

T +44 [REDACTED]
F +44 [REDACTED]
M +44 [REDACTED]
E [REDACTED]@dlapiper.com



DLA Piper Scotland LLP
www.dlapiper.com

This email is from DLA Piper Scotland LLP. The contents of this email and any attachments are confidential to the intended recipient. They may not be disclosed to or used by or copied in any way by anyone other than the intended recipient. If this e mail is received in error, please contact DLA Piper Scotland LLP on +44 (0) 20 7349 0296 quoting the name of the sender and the email address to which it has been sent and then delete it. For more information on how we process personal data please see www.dlapiper.com/privacy-policy. Please note that neither DLA Piper Scotland LLP nor the sender accepts any responsibility for viruses and it is your responsibility to scan or otherwise check this email and any attachments. DLA Piper Scotland LLP is a limited liability partnership registered in Scotland (registered number SO300365), which provides services from offices in Scotland. A list of members is open for inspection at its registered office and principal place of business Rutland Square, Edinburgh, EH1 2AA. Partner denotes member of a limited liability partnership. DLA Piper Scotland LLP is regulated by the Law Society of Scotland and is part of DLA Piper, a global law firm, operating through various separate and distinct legal entities. For further information, please refer to www.dlapiper.com.